

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SHANA MELIUS,

20 Civ. 5237 (E.R.)

PLAINTIFF

ANSWER TO PLAINTIFF'S  
COMPLAINT

V.

The New York City Council and  
Council Member ANDY KING,  
in his individual capacity.

DEFENDANTS

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1. DENIES: any unlawful conduct based on 42 U. S.C., Section 1983. Moreover, Defendant Denies Plaintiffs Complaint, that she was employed by Council member King. Ms. Melius was employed by the New York City Council and was assigned to work in Council member King's Office. Denies any unlawful conduct based on the New York City Human Rights Law. Furthermore, Defendant Kind Denies Plaintiff was not provided a Reasonable Accommodation by the HR Department of the City Council., who was responsible for providing accommodations.

2. Neither Admits nor Denies.

3. Denies: that at Plaintiff was a citizen of New Jersey at the time of the alleged allegation.

4. Neither Admits nor Denies.

5. Admits that Plaintiff was employed by the New York City Council.

6. Denies: that Council Member King was Not Plaintiffs employer within the meaning of the NYCHRL.

7. Denies.

8. Neither Admit or Denies, in that Defendant cannot adequately respond to the allegation without more information.

9. Neither admits or denies.

10. Defendant King neither admits nor Denies the allegation in paragraph 10, as he is without knowledge to form a belief as to the truth of the allegation in paragraph 10.
11. Defendant King neither admits nor Denies the allegation in paragraph 11, as he is without knowledge to form a belief as to the truth of the allegation in paragraph 11.
12. Plaintiff has to provide a specific date in order to admit or deny.
13. Plaintiff has to provide a specific date in order to admit or deny, BUT Defendant denies he ever told any staff member to be loyal while at Any meetings at his home.
14. Defendant King neither admits nor Denies the allegation in paragraph 14, as he is without knowledge to form a belief as to the truth of the allegation in paragraph 14.
15. Neither Admits nor Denies.
16. Denied
17. Denied, when Plaintiff was hired, she was living within the confines Of the Council Office, in the Bronx, and worked in the Bronx Office Of Council Member King. Defendant has no knowledge of when Plaintiff switched her address, and has no idea when she reported to The New York Office located at 250 Broadway, while still reporting in the Bronx. Defendant Admits that Plaintiff did work at 250 Broadway on occasion., as she did on Gun Hill Road.
18. Defendant King neither admits nor Denies the allegation in paragraph 18, as he is without knowledge to form a belief as to the truth of the allegation in paragraph 18.
19. Defendant King neither admits nor Denies the allegation in paragraph 19, as he is without knowledge to form a belief as to the truth of the allegation in paragraph 19.
20. Defendant King neither admits nor Denies the allegation in paragraph 20, as he is without knowledge to form a belief as to the truth of the

allegation in paragraph 20.

21. Defendant King neither admits nor Denies the allegation in paragraph 21, as he is without knowledge to form a belief as to the truth of the allegation in paragraph 21
22. Relevancy.
23. Neither Admit nor Deny
24. Relevancy, Defendant will move to strike (as Mr. Corny was plaintiffs Supervisor and she has not added him as a party). This activity is not Relevant to USC, Section 1983. and should be stricken.
25. Neither Admit nor Deny.
26. Denied.
28. Neither Admit or Deny, it is not relevant ant to any allegations against Defendant King and it should be struck.
29. Neither admit nor deny.
30. Neither Admit nor Deny, as paragraph 30 does not form a basis for a Response. It should be stricken
31. Neither Admit nor Deny, as paragraph 31 does not form a basis for a Response. It should be stricken
32. Denied: Defendant ever told anyone that they could not leave a meeting.
33. Denied
34. Defendant King neither admits nor denies the allegation in paragraph 34, as he is without knowledge to form a belief as to the truth of the allegation in paragraph 34.
35. Denied.
36. Denied.

37. Defendant King neither admits nor denies the allegation in paragraph 37, as he is without knowledge to form a belief as to the truth of the allegation in paragraph 37.
38. Denied
39. Denied
40. Denied
41. Denied. Plaintiff was told to seek as Reasonable Accommodations from HR, which she did, and the accommodations were given to her. Moreover over Ms. Hinds was the Chief of Staff, and these interactions had nothing to do with Defendant King.
42. Denied \* see attached as exhibit D-1.
46. Neither Admit nor Deny, in that defendant cannot form a sufficient basis to answer from the facts alleged in the complaint.
47. Denied
48. Denied.
49. Neither Admit nor Deny
50. Neither Admit nor Deny
51. Admit
52. Neither Admit nor Deny
53. Denied
54. Denied
55. Admit that Nicole Benjamin is a manager in the City Council's Human Resources Department and gave Plaintiff a Reasonable Accommodation as per her request.



- 56. Denied
- 57. Neither Admit nor Deny. However, to the extent Plaintiff refused to follow the Rules of the New York City Council's Human Rights Department, regarding the Reasonable Accommodations decision Defendant would Admit.
- 58. Admit
- 59. Neither Admit nor Deny, the provision is a self-serving conclusion and has nothing to do with the Defendant.
- 60. Denied
- 61. Denied.
- 62. Denied: SEE Defendant's (exhibit 1)
- 63. Denied: Plaintiff obtained a new Job with Congresswoman Yvette Clark.
- 64. Neither admitted nor deny with regard to Plaintiff.

**First Cause of Action**

- 65. Neither Admits or Deny
- 66. Denies, in that Section 1983 does not have a Retaliation Aspect to it, and it doesn't include a hostile work environment Claim as a part of it's tenants.
- 67. Denies
- 68. Denies

**Second Cause of Action**

- 69. Neither Admits or Deny
- 70. Denied
- 71. Denied
- 72. Denied

### **Third Cause of Action**

- 73. Neither Admit nor Deny
- 74. Denied, Plaintiff was given reasonable accommodations, which she refused to utilize and assumed the risk when she refused to follow her doctor's medication and did not utilize her leave.
- 75. Denied
- 76. Denied

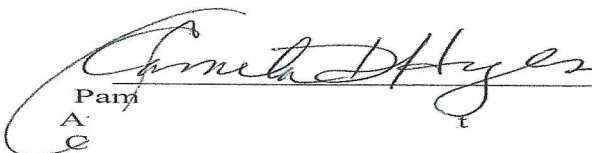
### **DEFENSES**

#### **Defendant's First Defense**

- 1. Plaintiff has failed to Exhaust all Administrative Remedies
- 2. Allegation of Contributory Behavior by Plaintiff.  
Plaintiff in her complaint alleged that she did not take her medicine as prescribed by her doctor. Moreover, Plaintiff explained to defendant King THAT SHE HAD never BEEN SUCCESSFUL WITH HER IMPLANT PROCEDURES BEFORE WHEN SHE WASN'T EVEN WORKING FOR Councilman King. Moreover, Plaintiff acknowledged that she was in a later age bracket and she knew it was not guaranteed especially if she did not follow proper procedures.
- 3. Plaintiff would not be successful under a FRCP 12 (b)(6) Motion (Failure to State a Claim upon which relief can be granted). Plaintiff's Complaint does not meet the standard for a claim even looking at it In the most favorable light, as she has failed to allege facts which would support her claim.
- 4. Plaintiff's complaint should be dismissed because he is a natural person and the entity City Council is the responsible party and is able to provide full relief.

**Wherefore** Defendant Council Member Andy King asks this Court to grant him the opportunity to file a Motion to Dismiss for Failure to State a Claim upon which Relief can be granted or in the alternative proceed with said matter and allow discovery to follow.

**New York, NY**  
**September 17, 2020**

A handwritten signature in cursive script, reading "Pamela D. Hayes". The signature is written in black ink and is positioned above a horizontal line. Below the line, the name "Pamela D. Hayes" is printed in a small, sans-serif font.

Pamela D. Hayes, Esq.,  
Attorney for Defendant  
Council Member Andy King  
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DEFENDANT KING

EXHIBIT 1



Nov 7, 2018, 1:30 PM

Shana McMelius

DOH Commissioner Dr.  
Harold Zucker & Executive  
Deputy Commissioner -  
Corning Tower (518).  
474-2011. Associate  
Commissioner & Regional  
Director Celeste Johnson -  
90 Church St, 14th Flr NYC  
(212) 417-5550

Morning... Please call about  
the waiver.

Just some details

Been trying IVF since 2013  
Had 2 failed attempts paid  
without insurance.

Subject

Text Message





Nov 9, 2018 9:08 AM

Terrie McMeekin

Morning... headed to 250. If my knee continues to hurt I will go to the hospital. I will text to let you know. Safe travels. [Love you guys!]



Terrie McMeekin

[Gabrielle Union and Taye Diggs  
Wade welcome baby girl  
surrogate after eight miscarriages]



Subject

Text Message

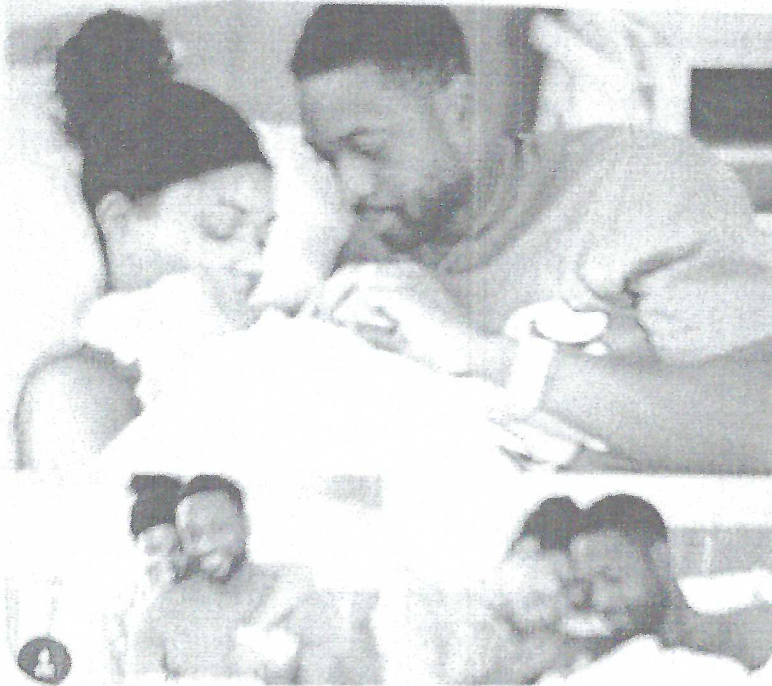




AK S  
2 People >

miscarriages'

@karmahamindanleap.com



They used a surrogate  
That's what I want need.

AK Good morning ok. Prayers

Nov 9, 2018, 10:07 AM

Shana McMeris

At 250 received message  
WFIH Norwood News &

Subject

Text Message





AT&T

1:58 PM

100%

< 13

AK S

2 People

Commissioner & Regional  
Director Celeste Johnson -  
90 Church St, 14th Flr NYC  
(212) 417-5550

Morning... Please call about  
the waiver.

Just some details

Been trying IVF since 2013  
Had 2 failed attempts paid  
without insurance.

Now I have insurance and  
the possibility of having 3  
more cycles  
or surrogate before turning  
46.

Please do not forget...time is  
of the essence.

Subject